

A bill for an act

relating to public safety; authorizing commissioner of public safety to gather and compile data on human trafficking every two years; increasing criminal penalties for certain promoting prostitution/sex trafficking offenses; expanding the sex trafficking and labor trafficking crimes; adding the promotion of prostitution/sex trafficking crime to the firearm law's definition of crime of violence and the victim rights law's definition of violent crime; expanding the prostitution penalty enhancement provision for repeat offenders; broadening the prostitution in a public place crime; making driving records relating to prostitution offenses public for repeat offenders and ensuring that they are available to law enforcement for first-time offenders; requiring posting of notices related to human trafficking at establishments that sell alcoholic beverages at retail and certain lodging establishments that have been involved in prostitution-related activity; modifying civil liability for labor and sex trafficking crimes; amending Minnesota Statutes 2008, sections 299A.785, subdivision 2; 609.281, subdivision 5; 609.321, subdivisions 7, 7a, by adding subdivisions; 609.322; 609.324, subdivisions 2, 3, 5; 611A.036, subdivision 7; 617.87; 624.712, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 299A; 340A; repealing Minnesota Statutes 2008, section 609.284, subdivision 2.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 299A.785, subdivision 2, is amended to read:

Subd. 2. ~~**Report and annual Publication.** (a) By September 1, 2006, the commissioner of public safety shall report to the chairs of the senate and house of representatives committees and divisions having jurisdiction over criminal justice policy and funding a summary of its findings. This report shall include, to the extent possible, the information to be collected in subdivision 1 and any other information the commissioner finds relevant to the issue of trafficking in Minnesota.~~

~~(b)~~ The commissioner shall gather, and compile, ~~and publish~~ annually statistical data on the extent and nature of trafficking in Minnesota. The commissioner shall publish the

data every two years. This ~~annual~~ publication shall be available to the public and include, to the extent possible, the information to be collected in subdivision 1 and any other information the commissioner finds relevant to the issue of trafficking in Minnesota.

Sec. 2. **[299A.794] HUMAN TRAFFICKING; CIVIL LIABILITY.**

(a) A trafficking victim may bring an action against a person who violates section 609.282, 609.283, or 609.322. A victim who prevails in an action brought under this section shall be awarded the greater of actual damages, including damages for emotional distress, or:

(1) \$5,000 if the victim was trafficked for a period of less than one month;

(2) \$10,000 if the victim was trafficked for a period of one month or more, but less than three months;

(3) \$15,000 if the victim was trafficked for a period of three months or more, but less than six months;

(4) \$20,000 if the victim was trafficked for a period of six months or more, but less than one year; or

(5) \$20,000 per year for each year the victim was trafficked, if the victim was trafficked for a period of one year or more.

A victim prevailing in an action brought under this section is also entitled to an award of punitive damages, costs, disbursements, litigation costs, and reasonable attorney fees.

(b) No criminal action needs to be filed or pending resulting from the same occurrence for an award to be made under this section.

(c) An action for damages under paragraph (a) must be commenced not later than six years after the cause of action arises or not later than one year from the date the trafficking victim bringing the action is free from human traffickers, whichever is later.

(d) For the purposes of this section, "person" means an individual, partnership, organization, company, association, or corporation.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to causes of action arising on or after that date.

Sec. 3. **[340A.5055] POSTING OF CERTAIN NOTICE REQUIRED.**

(a) A retail licensee shall display a sign containing the following notice in a public and conspicuous location if it has been cited by the local licensing authority as a location that has been subject to complaints to local law enforcement for sex trafficking activity after the effective date of this act:

"WARNING: Engaging in labor trafficking or sex trafficking is a crime under Minnesota Statutes, sections 609.282 and 609.322. Call the Minnesota Crisis and Tip Line at 1-888-772-3324 or 651-291-8810. You may remain anonymous."

(b) The sign must be in the form and in the languages as specified by the human trafficking task force created under section 299A.7955, and approved by the commissioner of public safety.

(c) A retail licensee shall be permitted to remove the required sign if the licensee has not been the subject of a complaint for sex trafficking activity for two years from when first required to post the sign. In addition, the local licensing authority, upon request of a retail establishment that has changed ownership, may permit the establishment to remove the required sign.

Sec. 4. Minnesota Statutes 2008, section 609.281, subdivision 5, is amended to read:

Subd. 5. **Labor trafficking.** "Labor trafficking" means:

(1) the recruitment, transportation, transfer, harboring, enticement, provision, obtaining, or receipt of a person by any means, whether a United States citizen or foreign national, for the purpose of:

~~(1) (i) debt bondage or forced labor or services;~~
~~(2) (ii) slavery or practices similar to slavery; or~~
~~(3) (iii) the removal of organs through the use of coercion or intimidation; or~~
(2) receiving profit or anything of value, knowing or having reason to know it is derived from an act described in clause (1).

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2008, section 609.321, subdivision 7, is amended to read:

Subd. 7. **Promotes the prostitution of an individual.** "Promotes the prostitution of an individual" means any of the following wherein the person knowingly:

- ~~(1) solicits or procures patrons for a prostitute; or~~
- ~~(2) provides, leases or otherwise permits premises or facilities owned or controlled by the person to aid the prostitution of an individual; or~~
- ~~(3) owns, manages, supervises, controls, keeps or operates, either alone or with others, a place of prostitution to aid the prostitution of an individual; or~~
- ~~(4) owns, manages, supervises, controls, operates, institutes, aids or facilitates, either alone or with others, a business of prostitution to aid the prostitution of an individual; or~~
- (5) admits a patron to a place of prostitution to aid the prostitution of an individual; or

(6) transports an individual from one point within this state to another point either within or without this state, or brings an individual into this state to aid the prostitution of the individual; ~~or~~
~~(7) engages in the sex trafficking of an individual.~~

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2008, section 609.321, subdivision 7a, is amended to read:

Subd. 7a. **Sex trafficking.** "Sex trafficking" means:

(1) receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the individual; ~~or~~

(2) receiving profit or anything of value, knowing or having reason to know it is derived from an act described in clause (1).

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2008, section 609.321, is amended by adding a subdivision to read:

Subd. 13. **Place of public accommodation.** "Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to crimes committed on or after that date.

Sec. 8. Minnesota Statutes 2008, section 609.321, is amended by adding a subdivision to read:

Subd. 14. **Prior qualified human trafficking-related offense.** A "prior qualified human trafficking-related offense" means a conviction or delinquency adjudication within the ten years from the discharge from probation or parole immediately preceding the current offense for a violation of or an attempt to violate section 609.322, subdivision 1 (solicitation, inducement, and promotion of prostitution; sex trafficking in the first degree); 609.322, subdivision 1a (solicitation, inducement, and promotion of prostitution;

5.1 sex trafficking in the second degree); 609.282 (labor trafficking); or 609.283 (unlawful
5.2 conduct with respect to documents in furtherance of labor or sex trafficking).

5.3 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes
5.4 committed on or after that date.

5.5 Sec. 9. Minnesota Statutes 2008, section 609.322, is amended to read:

5.6 **609.322 SOLICITATION, INDUCEMENT, AND PROMOTION OF**
5.7 **PROSTITUTION; SEX TRAFFICKING.**

5.8 Subdivision 1. ~~Individuals under age 18~~ **Solicitation, inducement, and**
5.9 **promotion of prostitution; sex trafficking in the first degree.** (a) Whoever, while
5.10 acting other than as a prostitute or patron, intentionally does any of the following may be
5.11 sentenced to imprisonment for not more than 20 years or to payment of a fine of not more
5.12 than ~~\$40,000~~ \$50,000, or both:

5.13 (1) solicits or induces an individual under the age of 18 years to practice prostitution;

5.14 (2) promotes the prostitution of an individual under the age of 18 years; ~~or~~

5.15 (3) receives profit, knowing or having reason to know that it is derived from the
5.16 prostitution, or the promotion of the prostitution, of an individual under the age of 18
5.17 years; or

5.18 (4) engages in the sex trafficking of an individual under the age of 18 years.

5.19 (b) Whoever violates paragraph (a) or subdivision 1a may be sentenced to
5.20 imprisonment for not more than 25 years or to payment of a fine of not more than \$60,000,
5.21 or both, if one or more of the following aggravating factors are present:

5.22 (1) the offender has committed a prior qualified human trafficking-related offense;

5.23 (2) the offense involved a sex trafficking victim who suffered bodily harm during
5.24 the commission of the offense;

5.25 (3) the time period that a sex trafficking victim was held in debt bondage or forced
5.26 labor or services exceeded 180 days; or

5.27 (4) the offense involved more than one sex trafficking victim.

5.28 Subd. 1a. ~~Other offenses~~ **Solicitation, inducement, and promotion of**
5.29 **prostitution; sex trafficking in the second degree.** Whoever, while acting other than
5.30 as a prostitute or patron, intentionally does any of the following may be sentenced to
5.31 imprisonment for not more than 15 years or to payment of a fine of not more than ~~\$30,000~~
5.32 \$40,000, or both:

5.33 (1) solicits or induces an individual to practice prostitution; ~~or~~

5.34 (2) promotes the prostitution of an individual; ~~or~~

(3) receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual; or
(4) engages in the sex trafficking of an individual.

Subd. 1b. **Exceptions.** Subdivisions 1, clause (3), and 1a, clause (3), do not apply to:

(1) a minor who is dependent on an individual acting as a prostitute and who may have benefited from or been supported by the individual's earnings derived from prostitution; or

(2) a parent over the age of 55 who is dependent on an individual acting as a prostitute, who may have benefited from or been supported by the individual's earnings derived from prostitution, and who did not know that the earnings were derived from prostitution; or

(3) the sale of goods or services to a prostitute in the ordinary course of a lawful business.

Subd. 1c. **Aggregation of cases.** Acts by the defendant in violation of any one or more of the provisions in this section within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this subdivision.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2008, section 609.324, subdivision 2, is amended to read:

Subd. 2. ~~Solicitation or acceptance of solicitation to engage in Prostitution in public place; penalty.~~ Whoever ~~solicits or accepts a solicitation to engage for hire in sexual penetration or sexual contact~~ intentionally does any of the following while in a public place ~~may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000 or both.~~ is guilty of a gross misdemeanor:

(1) engages in prostitution with an individual 18 years of age or older; or

(2) hires or offers or agrees to hire an individual 18 years of age or older to engage in sexual penetration or sexual contact.

Except as otherwise provided in subdivision 4, a person who is convicted of violating this subdivision while acting as a patron must, at a minimum, be sentenced to pay a fine of at least \$1,500.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2008, section 609.324, subdivision 3, is amended to read:

Subd. 3. ~~Engaging in, hiring, or agreeing to hire adult to engage in General prostitution crime; penalties.~~ (a) Whoever intentionally does any of the following ~~may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$1,000, or both~~ is guilty of a misdemeanor:

(1) engages in prostitution with an individual 18 years of age or above; or

(2) hires or offers or agrees to hire an individual 18 years of age or above to engage in sexual penetration or sexual contact. Except as otherwise provided in subdivision 4, a person who is convicted of violating this ~~clause or clause (1)~~ paragraph while acting as a patron must, at a minimum, be sentenced to pay a fine of at least \$500.

(b) Whoever violates the provisions of this subdivision within two years of a previous prostitution conviction ~~may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both~~ for violating this section or section 609.322 is guilty of a gross misdemeanor. Except as otherwise provided in subdivision 4, a person who is convicted of ~~a gross misdemeanor violation of this subdivision~~ violating this paragraph while acting as a patron, must, at a minimum, be sentenced as follows:

(1) to pay a fine of at least \$1,500; and

(2) to serve 20 hours of community work service.

The court may waive the mandatory community work service if it makes specific, written findings that the community work service is not feasible or appropriate under the circumstances of the case.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to crimes committed on or after that date.

Sec. 12. Minnesota Statutes 2008, section 609.324, subdivision 5, is amended to read:

Subd. 5. **Use of motor vehicle to patronize prostitutes; driving record notation.**
(a) When a court sentences a person convicted of violating this section while acting as a patron, the court shall determine whether the person used a motor vehicle during the commission of the offense and whether the person has previously been convicted of violating this section or section 609.322. If the court finds that the person used a motor vehicle during the commission of the offense, it shall forward its finding along with an indication of whether the person has previously been convicted of a prostitution offense to the commissioner of public safety who shall record the finding on the person's driving

record. Except as provided in paragraph (b), the finding is classified as private data on individuals, as defined in section 13.02, subdivision 12, but is accessible for law enforcement purposes.

(b) If the person has previously been convicted of a violation of this section or section 609.322, the finding is public data.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to crimes committed on or after that date.

Sec. 13. Minnesota Statutes 2008, section 611A.036, subdivision 7, is amended to read:

Subd. 7. **Definition.** As used in this section, "violent crime" means a violation or attempt to violate any of the following: section 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.21 (criminal vehicular homicide and injury); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.2241 (knowing transfer of communicable disease); 609.2242 (domestic assault); 609.2245 (female genital mutilation); 609.2247 (domestic assault by strangulation); 609.228 (great bodily harm caused by distribution of drugs); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse); 609.233 (criminal neglect); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.265 (abduction); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.2672 (assault of an unborn child in the third degree); 609.268 (injury or death of an unborn child in commission of a crime); 609.282 (labor trafficking); 609.322 (solicitation, inducement, and promotion of prostitution; sex trafficking); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.3451 (criminal sexual conduct in the fifth degree); 609.3453 (criminal sexual predatory conduct); 609.352 (solicitation of children to engage in sexual conduct); 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.561, subdivision 1, (arson in the first degree; dwelling); 609.582, subdivision 1, paragraph (a) or (c), (burglary in the first degree;

occupied dwelling or involving an assault); or 609.66, subdivision 1e, paragraph (b), (drive-by shooting; firing at or toward a person, or an occupied building or motor vehicle).

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to crimes committed on or after that date.

Sec. 14. Minnesota Statutes 2008, section 617.87, is amended to read:

617.87 RELEASE OF PROPERTY.

If, after an order of abatement has been entered, the owner appears and pays the costs of the action and files a bond in an amount determined by the court, but not to exceed \$50,000, conditioned that the owner will immediately abate the nuisance for a period of one year, the court may, if satisfied of the owner's good faith, order the release of the building or portion of it which is subject to the order of abatement. If the building or portion of it that is subject to the order of abatement is a hotel, motel, or similar establishment that rents overnight lodging to the public and the nuisance was prostitution or prostitution-related activity that involved sex trafficking, as defined in section 609.321, subdivision 7a, the release must require the owner to post a notice in the form specified in section 340A.5055 in each unit and portion of the building that was subject to the order of abatement. If the premises are released, for each day during the term of the bond that the owner knowingly permits any part of the premises to be used for any activity which was the basis of the abatement order or fails to post the notice, if required, the owner shall forfeit \$1,000 under the bond. Forfeiture under the bond does not relieve the owner from prosecution for contempt. Release of the property pursuant to this section does not release it from an injunction issued under section 617.83 or any other judgment, penalty, lien, or liability to which it may be subject by law.

Sec. 15. Minnesota Statutes 2008, section 624.712, subdivision 5, is amended to read:

Subd. 5. **Crime of violence.** "Crime of violence" means: felony convictions of the following offenses: sections 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.215 (aiding suicide and aiding attempted suicide); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.229 (crimes committed for the benefit of a gang); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.322 (solicitation, inducement, and

promotion of prostitution; sex trafficking); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.486 (commission of crime while wearing or possessing a bullet-resistant vest); 609.52 (involving theft of a firearm, theft involving the intentional taking or driving of a motor vehicle without the consent of the owner or authorized agent of the owner, theft involving the taking of property from a burning, abandoned, or vacant building, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle, and theft involving the theft of a controlled substance, an explosive, or an incendiary device); 609.561 (arson in the first degree); 609.562 (arson in the second degree); 609.582, subdivision 1, 2, or 3 (burglary in the first through third degrees); 609.66, subdivision 1e (drive-by shooting); 609.67 (unlawfully owning, possessing, operating a machine gun or short-barreled shotgun); 609.71 (riot); 609.713 (terroristic threats); 609.749 (harassment and stalking); 609.855, subdivision 5 (shooting at a public transit vehicle or facility); and chapter 152 (drugs, controlled substances); and an attempt to commit any of these offenses.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to crimes committed on or after that date.

Sec. 16. **REPEALER.**

Minnesota Statutes 2008, section 609.284, subdivision 2, is repealed.

EFFECTIVE DATE. This section is effective August 1, 2009.

APPENDIX
Repealed Minnesota Statutes: s1514-1

609.284 LABOR OR SEX TRAFFICKING CRIMES; DEFENSES; CIVIL LIABILITY; CORPORATE LIABILITY.

Subd. 2. **Civil liability.** A labor trafficking victim may bring a cause of action against a person who violates section 609.282 or 609.283. The court may award damages, including punitive damages, reasonable attorney fees, and other litigation costs reasonably incurred by the victim. This remedy is in addition to potential criminal liability.